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3 UNITED STATES DISTRICT COURT  
4 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

5 WILLIAM DAVENPORT,

6 Plaintiffs,

7 v.

8 KELLY CUNNINGHAM, DAROLD  
9 WEEKS, CATHY HARRIS, RANDALL  
GRIFFITH, BARBARA BOARDMAN,  
10 LINDA BRYANT, WILLIE  
STODDARD, HENRY RICHARDS, and  
11 UNIDENTIFIED MED DISPENSING  
NURSES,

12 Defendants.

No. C10-5583 BHS/KLS

ORDER DENYING MOTION FOR RULE  
56(F) CONTINUANCE

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14 Before the Court is Plaintiff William Davenport's "Opposition to States Motion for  
15 Summary Judgment." ECF No. 44. Plaintiff does not rebut any arguments made in Defendants'  
16 motion for summary judgment nor does he produce any evidence in opposition. Instead, he  
17 argues that now is not the appropriate time for summary judgment as the Defendants have failed  
18 to comply with his discovery requests. *Id.* For the reasons set forth below, this argument is  
19 rejected.

20 **BACKGROUND**

21  
22 Defendants sent responses to Plaintiff's discovery requests to him. The responses were  
23 contained on a CD, which according to rules of the Special Commitment Center (SCC) must be  
24 scanned. Plaintiff rejected and sent back the CD to Defendants' counsel because he objected to  
25 having the CD scanned by the SCC mailroom supervisor. ECF No. 45, p. 2. According to  
26 Plaintiff, he was told he could not have the CD because he does not own a computer. However,

1 Plaintiff asserts that he was attempting to purchase a computer (which he expected to have by  
2 August 15, 2011), and requested that the summary judgment motions (the Court assumes  
3 Plaintiff is also referring to Defendant Griffith's motion which has already been granted), be  
4 denied, that discovery be extended, and that Defendants be ordered to produce discovery. ECF  
5 No. 44, p. 4.

6  
7 Plaintiff has not filed a motion to produce any discovery and includes no certification that  
8 he has in good faith conferred or attempted to confer with the SCC Defendants' counsel in an  
9 effort to secure the information or material without court intervention. Fed. R. Civ. P.

10 37(a)(2)(B). More importantly, Plaintiff fails to demonstrate that there are specific facts he  
11 hopes to discover if granted a continuance that will raise a genuine issue of material fact. Rule  
12 56(f) of the Federal Rules of Civil Procedure provides:

13 If a party opposing the motion [for summary judgment] shows by affidavit that,  
14 for specified reasons, it cannot present facts essential to justify its opposition, the  
15 court may:

16 (1) deny the motion;

17 (2) order a continuance to enable affidavits to be obtained, depositions to be  
18 taken, or other discovery to be undertaken; or

19 (3) issue any other just order.

20 A party seeking a continuance under Rule 56(f) must demonstrate that there are specific  
21 facts he hopes to discover if granted a continuance that will raise a genuine issue of material fact.  
22 *Harris v. Duty Free Shoppers Ltd. Partnership*, 940 F.2d 1272, 1276 (9th Cir.1991); *Carpenter*  
23 *v. Universal Star Shipping, S.A.*, 924 F.2d 1539, 1547 (9th Cir.1991). "The burden is on the  
24 party seeking to conduct additional discovery to put forth sufficient facts to show that the  
25 evidence sought exists." *Volk v. D.A. Davidson & Co.*, 816 F.2d 1406, 1416 (9th Cir.1987). *See*  
26

1 also *Tatum v. City and County of San Francisco*, 441 F.3d 1090, 1100 (9th Cir.2006); *California*  
2 *v. Campbell*, 138 F.3d 772, 779 (9th Cir. 1998) (party opposing on Rule 56(f) grounds needs to  
3 state the specific facts he hopes to elicit from further discovery, that the facts sought exist and  
4 that the sought-after facts are essential to resisting the summary judgment motion); *Hancock v.*  
5 *Montgomery Ward Long Term Disability Trust*, 787 F.2d 1302, 1306 n. 1 (9th Cir.1986) (holding  
6 that the party opposing summary judgment “has the burden under Rule 56(f) to show what facts  
7 he hopes to discover to raise an issue of material fact”).  
8

9 Plaintiff has detailed no facts that he hopes to discovery that are essential to resisting the  
10 summary judgment motion. His request for continuance of the summary judgment motion is not  
11 well taken.

12 Accordingly, it is **ORDERED**:

13 (1) Plaintiff’s motion to compel discovery and/or continue the Defendants’ motion  
14 for summary judgment (ECF No. 44) is **DENIED**.  
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16 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

17 **DATED** this 19th day of September, 2011.  
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21 Karen L. Strombom  
22 United States Magistrate Judge  
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